



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 30624545

Date: MAY 9, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, an autonomous systems and robotics engineer, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding that the Petitioner had not satisfied the initial evidentiary criteria, of which he must meet at least three. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

**I. LAW**

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the [noncitizen] has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the [noncitizen] seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the [noncitizen's] entry into the United States will substantially benefit prospectively the United States.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then they must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

## II. ANALYSIS

The Petitioner is a researcher in the field of autonomous systems and robotics engineering. He intends to continue to conduct research in this field in the United States.

### A. Evidentiary Criteria

Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director determined that the Petitioner only met the plain language requirements of two evidentiary criteria relating to judging the work of others at 8 C.F.R. § 204.5(h)(3)(iv) and authorship of scholarly articles at 8 C.F.R. § 204.5(h)(3)(vi). The record supports this determination.

On appeal, the Petitioner maintains that he also meets the evidentiary criterion at 8 C.F.R. § 204.5(h)(3)(v) related to original contributions of major significance in the field and contends that the Director did not sufficiently analyze his assertions and the submitted evidence with respect to this criterion.

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), the Petitioner must establish that not only has he made original contributions but that they have been of major significance in the field. *See generally 6 USCIS Policy Manual F.2(B)(1)*, <https://www.uscis.gov/policymanual>. For example, the Petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

The Petitioner initially submitted documentation regarding his research, as well as copies of his scientific articles and citation records, scientific articles written by others who cite his work, evidence

of a patent, evidence of funding he received for his work, and testimonial letters from others in the field in support of his eligibility under this criterion. The Director found this evidence insufficient and requested additional evidence in the form of objective documentary evidence demonstrating that his contributions were both original and of major significance to the field.

In response, the Petitioner asserted that the Director erroneously discounted evidence regarding funding he had received for his work from prestigious organizations in the field, noting that his work has been funded by grants from organizations such as National Aeronautics and Space Administration (NASA), the Air Force Office of Scientific Research (AFOSR), and the National Science Foundation (NSF). Noting that these organizations have international recognition for outstanding research, the Petitioner asserted that his receipt of funding from these organizations demonstrates that leading groups in the field have recognized the originality and major significance of his work.

The Petitioner further asserted that the Director did not afford sufficient weight to his citation history and testimonial letters. Specifically, he contended that the citations to his work by others in the field show that his research has garnered uncommon levels of attention. Regarding the testimonial letters, he asserted that the statements in the letters contain direct examples of how his work constitutes original contributions of major significance to the field. The Petitioner also submitted additional testimonial letters and an updated citation index in response to the request for evidence (RFE).

In the denial decision, the Director stated that the testimonial letters discussing the Petitioner's work in the field lacked specificity regarding how his achievements have affected the field as a whole or how they are being reproduced within the field. The Director also determined the Petitioner's citation history was not indicative of major significance in the field.

On appeal, the Petitioner asserts that the Director's decision did not address the evidence he submitted with any specificity and instead summarily concluded that the evidence was insufficient. The Petitioner's appellate submission provides an overview of evidence submitted initially and in response to the RFE and contends that the Director's decision "erred by dismissing or completely ignoring critical pieces of evidence." Specifically, the Petitioner states that the Director did not discuss any specific deficiencies regarding documents submitted to demonstrate his contributions of major significance, and further asserts that the Director improperly dismissed evidence without proper explanation.

The record contains numerous letters from researchers in the field whose endorsements contain detailed discussions of their use of the Petitioner's research for their own projects, as well as descriptions of references made to the Petitioner's work in research publications. The record also includes the articles referenced and objective analysis concerning citation percentiles to support the Petitioner's claim of influence in the field of autonomous systems and robotics engineering.

We agree with the Petitioner's assertion that it is difficult to discern based on the Director's decision what specific evidence was considered in reaching the unfavorable determination. As the decision only vaguely referenced the testimonial letters in the analysis of this criterion, without discussing the content of the letters or any other documentation provided, the Petitioner appropriately observes on appeal that "it is unclear if the officer has read the letters of support." In addition to detailed testimonial letters from researchers in the field, the Petitioner's evidence in support of this criterion

also included his citation records and information regarding the governmental entities that have funded his previous work. The Director's decision does not specifically address a single piece of that evidence, nor does it evaluate the Petitioner's response to the RFE or the additional evidence submitted aside from noting that the evidence "shows the [Petitioner] provides valuable research."

An officer must fully explain the specific reasons for denying a visa petition. *See* 8 C.F.R. § 103.3(a)(1)(i). Here, for the reasons discussed above, the Director's decision did not adequately explain the reasons for denial. As such, the Petitioner was not provided a fair opportunity to contest the decision. *See Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal).

On remand, the Director is instructed to re-evaluate the evidence submitted in support of the petition to determine whether the Petitioner satisfied the plain language of at least three criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), and to issue a new decision. In doing so, the Director should also review the Petitioner's appellate brief, which further addresses the previously submitted evidence.

#### B. Final Merits Determination

As the Director did not conclude that the Petitioner met the initial evidence requirements, the decision did not include a final merits determination. If after review the Director determines that the Petitioner received a major, internationally recognized award or satisfied at least three criteria at 8 C.F.R. 204.5(h)(3), the new decision should include an analysis of the totality of the record evaluating whether the Petitioner has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim, that he is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation.

**ORDER:** The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.